

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE**

In re: Nissan North America, Inc. Litigation

Case Nos.: 3:19-cv-00843

3:19-cv-00854

3:22-cv-00098

District Judge William L. Campbell, Jr.
Magistrate Judge Jeffrey S. Frensley

LAKEITA KEMP, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

NISSAN NORTH AMERICA, INC. and
NISSAN MOTOR CO., LTD.

Defendants

BAREDA et al., individually and on behalf
of all others similarly situated,

Plaintiffs,

v.

NISSAN NORTH AMERICA, INC. and
NISSAN MOTOR CO., LTD.

Defendants

**DECLARATION OF BENJAMIN A. GASTEL IN SUPPORT OF PLAINTIFFS'
MOTION TO STRIKE TESTIMONY OF SATORU YAHAGI (ECF NO. 261-25)**

I, Benjamin A. Gastel, state as follows:

1. I am over 21 years of age.
2. I am competent to testify to the matters stated herein.
3. I have personal knowledge of the matters contained herein.
4. Attached hereto as **Exhibit A** is a true and correct copy of Nissan North America,

Inc's Initial Disclosures Pursuant to Fed. R. Civ. P. 26(a)(1).

5. Attached hereto as **Exhibit B** is a true and correct copy of Nissan North America,
Inc.'s Objection and Responses to Plaintiffs' First Set of Interrogatories.

6. Attached hereto as **Exhibit C** is a true and correct copy of Nissan Motor Co., Ltd.'s
Objections and Responses to Plaintiffs' First Set of Interrogatories.

7. Attached hereto as **Exhibit D** is a true and correct copy of Nissan Motor Co., Ltd.'s
Initial Disclosures Pursuant to Fed. R. Civ. P. 26(a)(1).

8. Attached hereto as **Exhibit E** is a true and correct email exchange between
Plaintiffs' counsel and Defendants' counsel dated September 3, 2021 and September 9, 2021.

9. At no point either before or after filing its opposition to Plaintiffs' motion for class
certification has Nissan supplemented any of its Interrogatory Responses or Rule 26(a)
Disclosures.

10. Plaintiffs began noticing depositions in connection with their forthcoming motion
for class certification well over a year ago, in September of 2021. In large part, Plaintiffs noticed
depositions based on Nissan's Rule 26 Disclosures and Interrogatory Responses.

11. Counsel for Defendants has informed counsel for Plaintiffs that Mr. Satoru Yahagi
is located in Japan.

12. Had Nissan identified Mr. Yahagi as a fact witness in its disclosures, Plaintiffs would have begun steps to depose him last year, when Plaintiffs deposed the fact witnesses Nissan identified in its Disclosures and Interrogatory Responses.

13. Because Mr. Yahagi was not disclosed, there was no perceived need to incur the massive expense of traveling to Japan and hiring a translator to depose him.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 14th day of November, 2022, at Nashville, Tennessee.

/s/ Benjamin A. Gastel
Benjamin A. Gastel

Dated: November 14, 2022

Respectfully submitted,

By: /s/ Benjamin A. Gastel

J. Gerard Stranch, IV (BPR 23045)

Benjamin A. Gastel (BPR 28699)

BRANSTETTER, STRANCH & JENNINGS PLLC

223 Rosa L. Parks Avenue, Suite 200

Nashville, Tennessee 37203

Telephone: (615) 254-8801

Email: gerards@bsjfirm.com

Email: beng@bsjfirm.com

L. Timothy Fisher, *pro hac vice*

Joel D. Smith, *pro hac vice*

Frederick J. Klorczyk III, *pro hac vice*

BURSOR & FISHER, P.A.

1990 N. California Blvd., Suite 940

Walnut Creek, CA 94596

Telephone: (925) 300-4455

Email: fklorczyck@burson.com

Email: ltfisher@burson.com

Email: jsmith@burson.com

W. Daniel “Dee” Miles, III, *pro hac vice*

H. Clay Barnett, III, *pro hac vice*

J. Mitch Williams, *pro hac vice*

BEASLEY, ALLEN, CROW, METHVIN, PORTIS & MILES, P.C.

272 Commerce Street Montgomery, Alabama 36104

Telephone: (334) 269-2343

Email: dee.miles@beasleyallen.com

Email: clay.barnett@beasleyallen.com

Email: mitch.williams@beasleyallen.com

Adam J. Levitt, *pro hac vice*

John E. Tangren, *pro hac vice*

Daniel R. Ferri, *pro hac vice*

DICELLO LEVITT & GUTZLER LLC

Ten North Dearborn Street, Eleventh Floor

Chicago, Illinois 60602

Telephone: (312) 214-7900

Email: alevitt@dlcfirm.com

Email: jtangren@dlcfirm.com

Email: dferri@dlcfirm.com

Benjamin L. Bailey, *pro hac vice*

Jonathan D. Boggs, *pro hac vice*
Michael L. Murphy, *pro hac vice*
BAILEY GLASSER LLP
209 Capitol Street
Charleston, West Virginia 25301
Telephone: (304) 345-6555
Email: bbailey@baileyglasser.com
Email: jboggs@baileyglasser.com
Email: mmurphy@baileyglasser.com

Daniel A. Schlangen, *pro hac vice forthcoming*
SCHLANGER LAW GROUP, LLP
9 East 40th Street, Suite 1300
New York, New York 10016
Telephone: (212) 250-6114
Email: dschlangen@consumerprotection.net

Counsel for Plaintiffs and the Proposed Class

CERTIFICATE OF SERVICE

I certify that on November 14, 2022, I electronically filed the foregoing document using the Court's CM/ECF system, and a copy of this filing will be sent electronically to the registered participants as identified on the Notice of Electronic Filing. The following counsel will receive service via the Court's CM/ECF system at the email addresses listed below or by U.S. Mail prepaid postage:

Alyson S. Beridon
**BRANSTETTER, STRANCH
& JENNINGS PLLC**
425 Walnut St.
Suite 2315
Cincinnati, OH 45202
alysonb@bsjfirm.com

Daniel A. Schlanger
SCHLANGER LAW GROUP LLP
9 East 40th Street
Suite 1300
New York, NY 10016
dschlanger@consumerprotection.net

Jaimie Mak
RICHMAN LAW GROUP
81 Prospect Street
Brooklyn, New York 11201
jmak@richmanlawgroup.com

Kim E. Richman
RICHMAN LAW GROUP
8 West 126th Street
New York, New York 10027
krichman@richmanlawgroup.com

Alec M. Leslie
BURSOR & FISHER, P.A.
888 Seventh Avenue
New York, NY 10106
aleslie@bursor.com

Adam M. Prom

DICELLO LEVITT & GUTZLER LLC
10 North Dearborn Street
Sixth Floor
Chicago, IL 60602
Email: aprom@dicellosevitt.com

Rebecca D. Gilliland

Dylan T. Martin

James Mitchell Williams

BEASLEY, ALLEN, CROW, METHVIN, PORTIS & MILES, P.C.

218 Commerce Street

Montgomery, AL 36104

Rebecca.Gilliland@beasleyallen.com

Dylan.Martin@beasleyallen.com

Mitch.Williams@BeasleyAllen.com

Lynn A. Toops

Lisa M. La Fornara

COHEN & MALAD, LLP

One Indiana Square, Suite 1400

Indianapolis, Indiana 46204

ltoops@cohenandmalad.com

llaifornara@cohenandmalad.com

Brigid M. Carpenter

**BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.**

211 Commerce Street, Suite 800

Nashville, Tennessee 37201

bcarpenter@bakerdonelson.com

Anthony F. Schlehuber

**BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.**

1600 West End Avenue

Suite 2000

Nashville, TN 37203

anthony.schlehuber@vanderbilt.edu

E. Paul Cauley, Jr.

S. Vance Wittie

Jude T. Hickman

**FAEGRE DRINKER BIDDLE
& REATH LLP**

1717 Main Street, Suite 5400

Dallas, Texas 75201

paul.cauley@faegredrinker.com
vance.wittie@faegredrinker.com
jude.hickland@faegredrinker.com

Paul Jeffrey Riehle
Matthew Jacob Adler
Jessica Brennan
Jude T. Hickland
**FAEGRE DRINKER BIDDLE
& REATH LLP**
Four Embarcadero Center, 27th Floor
San Francisco, California 94111
matthew.adler@faegredrinker.com
paul.riehle@faegredrinker.com
jessica.brennan@faegredrinker.com
jude.hickland@faegredrinker.com

Bryan D. Pasciak
**FAEGRE DRINKER BIDDLE
& REATH LLP**
311 S. Wacker Drive
Suite 4300
Chicago, IL 60606
bryan.pasciak@faegredrinker.com

Christine R. M. Kain
**FAEGRE DRINKER BIDDLE
& REATH LLP**
2200 Wells Fargo Center
90 S Seventh Street
Minneapolis, MN 55402
Email: christine.kain@faegredrinker.com

Erica K. Drew
**FAEGRE DRINKER BIDDLE
& REATH LLP**
300 N Meridian Street
Suite 2500
Indianapolis, IN 46204
Email: erica.drew@faegredrinker.com

/s/ Benjamin A. Gastel
Benjamin A. Gastel